

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

THOMAS K. MILLS,

Plaintiff,

v.

ZACHERY JONES, et al.

Defendants.

Case No. 1:23-cv-1214 JLT SAB (PC)

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS DENYING  
PLAINTIFF'S FOURTH MOTION FOR  
SUMMARY JUDGMENT

(Docs. 68, 69)

Thomas K. Mills asserts the defendants violated his civil rights during Plaintiff's incarceration at North Kern State Prison and moved for summary judgment on his claims. (Doc. 55.) The magistrate judge found Plaintiff's fourth motion for summary judgment was premature because "Defendants have not had sufficient opportunity to conduct discovery as it was just opened on April 10, 2024." (Doc. 69 at 2, citing Doc. 51.) In addition, the magistrate judge found the motion was "procedurally deficient," because Plaintiff did not prepare "a separate statement of undisputed facts as required by Local Rule 260(a)." (*Id.*) Therefore, the magistrate judge recommended the motion be denied without prejudice. (*Id.* at 3.)

The Court served the Findings and Recommendations on the parties and notified them that any objections were to be filed within 14 days after service. (Doc. 57 at 3.) The Court advised Plaintiff that the "failure to file objections within the specified time may result in the waiver of rights on appeal." (*Id.*, citing *Wilkerson v. Wheeler*, 772 F.3d 834, 838-39 (9th Cir. 2014).)

1 Plaintiff did not file objections, and the time to do so has passed.

2 According to 28 U.S.C. § 636(b)(1), this Court performed a *de novo* review of this case.

3 Having carefully reviewed the matter, the Court concludes the Findings and Recommendations  
4 are supported by the record and proper analysis. Thus, the Court **ORDERS**:

5 1. The Findings and Recommendations issued on June 10, 2024 (Doc. 69) are  
6 **ADOPTED** in full.

7 2. Plaintiff's fourth motion for summary judgment filed on June 10, 2024 (Doc. 68)  
8 is **DENIED** without prejudice.

9  
10 IT IS SO ORDERED.

11 Dated: July 1, 2024

  
UNITED STATES DISTRICT JUDGE

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28